

territorial regulatory or supervisory authority for any such credit union.

(j) *Terminate, termination, and terminating*, when used in reference to insurance, refer to the act of canceling federal insurance and mean that the credit union will become uninsured.

(k) *Uninsured* means there is no share or deposit insurance available on the credit union accounts.

Subpart A—Mergers

§ 708b.101 Mergers generally.

(a) In any case where a merger will result in the termination of federal insurance or conversion to nonfederal insurance, the merging credit union must comply with the provisions of subparts B and C of this part in addition to this subpart A.

(b) A federally-insured credit union must have the prior written approval of the NCUA before merging with any other credit union.

(c) Where the continuing credit union is a federal credit union, it must be in compliance with the chartering policies of the NCUA.

(d) Where the continuing or merging credit union is a state credit union, the merger must be permitted by state law or authorized by the state authority.

(e) Where both the merging and continuing credit unions are federally-insured and the two credit unions have overlapping fields of membership, the continuing credit union must, within three months after completion of the merger, either:

(1) Notify all members of the continuing credit union of the potential loss of insurance coverage if they had overlapping membership,

(2) Notify all individuals and entities that were actually members of both credit unions of the potential loss of insurance coverage, or

(3) Determine which members of both credit unions may actually have uninsured funds six months after the merger and notify those members of the potential loss of insurance coverage.

§ 708b.102 Special provisions for federal insurance.

(a) Where the continuing credit union is federally-insured, the NCUSIF will assess a deposit and a prorated insur-

ance premium (unless waived in whole or in part for all insured credit unions during that year) on the additional share accounts insured as a result of the merger of a nonfederally-insured or uninsured credit union with a federally-insured credit union.

(b) Where the continuing credit union is nonfederally-insured or uninsured but desires to be federally-insured as of the date of the merger, it must submit an application to the appropriate Regional Director when the merging credit union requests approval of the merger proposal. If the Regional Director approves the merger, the NCUSIF will assess a deposit and a prorated insurance premium (unless waived in whole or in part for all insured credit unions during that year) on any additional share accounts insured as a result of the merger.

(c) Where the continuing credit union is nonfederally-insured or uninsured and does not make application for insurance, but the merging credit union is federally-insured, the continuing credit union is entitled to a refund of the merging credit union's NCUSIF deposit and to a refund of the unused portion of the NCUSIF share insurance premium (if any). If the continuing credit union is uninsured, the NCUSIF will make the refund only after expiration of the one-year period of continued insurance coverage noted in paragraph (e) of this section.

(d) Where the continuing credit union is nonfederally-insured, NCUSIF insurance of the member accounts of a merging federally-insured credit union ceases as of the effective date of the merger.

(e) Where the continuing credit union is uninsured, NCUSIF insurance of the member accounts of the merging federally-insured credit union will continue for a period of one year, subject to the restrictions in section 206(d)(1) of the Act.

§ 708b.103 Preparation of merger plan.

(a) Upon the approval of a proposition for merger by the boards of directors of the credit unions, the two credit unions must prepare a plan for the proposed merger that includes:

(1) Current financial statements for both credit unions;

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(2) Current delinquent loan summaries and analyses of the adequacy of the Allowance for Loan and Lease Losses account;

(3) Consolidated financial statements, including an assessment of the generally accepted accounting principles (GAAP) net worth of each credit union before the merger and the GAAP net worth of the continuing credit union after the merger;

(4) Analyses of share values;

(5) Explanation of any proposed share adjustments;

(6) Explanation of any provisions for reserves, undivided earnings or dividends;

(7) Provisions with respect to notification and payment of creditors;

(8) Explanation of any changes relative to insurance such as life savings and loan protection insurance and insurance of member accounts;

(9) Provisions for determining that all assets and liabilities of the continuing credit union will conform with the requirements of the Act (where the continuing credit union is a federal credit union); and

(10) Proposed charter amendments (where the continuing credit union is a federal credit union). These amendments, if any, will usually pertain to the name of the credit union and the definition of its field of membership.

(b) [Reserved]

§ 708b.104 Submission of merger proposal to the NCUA.

(a) Upon approval of the merger plan by the boards of directors of the credit unions, the credit unions must submit the following information to the Regional Director:

(1) The merger plan, as described in this part;

(2) Resolutions of the boards of directors;

(3) Proposed Merger Agreement;

(4) Proposed Notice of Special Meeting of the Members (for merging federal credit unions);

(5) Copy of the form of Ballot to be sent to the members (for merging federal credit unions);

(6) Evidence that the state's supervisory authority approves the merger proposal (for states that require such agreement before NCUA approval);

(7) Application and Agreement for Insurance of Member Accounts (for continuing state credit unions desiring to become federally-insured);

(8) If the merging credit union has \$50 million or more in assets on its latest call report, a statement about whether the two credit unions intend to make a Hart-Scott-Rodino Act premerger notification filing with the Federal Trade Commission and, if not, an explanation why not; and

(9) For mergers where the continuing credit union is not federally-insured and will not apply for federal insurance:

(i) A written statement from the continuing credit union that it "is aware of the requirements of 12 U.S.C. 1831t(b), including all notification and acknowledgment requirements"; and

(ii) Proof that the accounts of the credit union will be accepted for coverage by the nonfederal insurer (if the credit union will have nonfederal insurance).

(b) [Reserved]

§ 708b.105 Approval of merger proposal by the NCUA.

(a) In any case where the continuing credit union is federally-insured and the merging credit union is nonfederally-insured or uninsured, the NCUA will determine the potential risk to the NCUSIF.

(b) If the NCUA finds that the merger proposal complies with the provisions of this Part and does not present an undue risk to the NCUSIF, it may approve the proposal subject to any other specific requirements as it may prescribe to fulfill the intended purposes of the proposed merger. For mergers of federal credit unions into federally-insured credit unions, if the NCUA determines that the merging credit union is in danger of insolvency and that the proposed merger would reduce the risk or avoid a threatened loss to the NCUSIF, the NCUA may permit the merger to become effective without an affirmative vote of the membership of the merging credit union otherwise required by § 708b.106 of this part.

(c) NCUA may approve any proposed charter amendments for a continuing federal credit union contingent upon